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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

No. 291

METHODIST RIVER OAKS APARTMENTS, INC.,
Petitioner,

vs.

CITY OF WACO AND LA VEGA INDEPENDENT SCHOOL DISTRICT OF McLENNAN COUNTY, TEXAS,
Respondents.

REPLY TO RESPONDENTS' BRIEF

THOMAS P. BROWN, III
1008 20th Street, Northwest
Washington, D. C.
DAVID B. KULTGEN
BEARD & KULTGEN
P. O. Box 529
Waco, Texas 76703
Attorneys for Petitioner

R. L. Stephenson, Inc., 926 Cherry Street, Kansas City, Mo. 64106, HArrison 1-0939

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NATIONAL POLICY

Respondents assert that they are not bound by National Policy. (Respondents' Brief, page 15). The policy to which they have reference is the development of well planned, integrated residential neighborhoods. It was promulgated by the Congress in the Housing Act of 1949.

Their assertion points up the "special and important reasons" (to quote the language of this Court's Rule 19) for granting Certiorari here. This Court knows that the sub-

ject policy is highly unpopular in many areas of the country and with many segments of the population. If the States can discriminate against facilities designed to fulfill the policy by selective taxation, they can impede or prevent implementation of the objectives which Congress seeks to achieve. The prevention of any such impediment is certainly a special and important reason for granting the Writ sought here.

FAILURE OF RESPONDENTS TO MEET THE ISSUE

Petitioner's basic argument is that the opening up and integrating of a negro ghetto neighborhood is a charitable purpose. One would never discover this from reading Respondents' Brief or the opinion of the Texas Court of Civil Appeals. Both the Brief and the opinion ignore what Petitioner says and answer arguments which it does not make.

If the Texas Court had met Petitioner's argument and had espoused some test for tax exemption relevant to the purposes of the Texas statutes and Constitution, which Petitioner does not meet, Petitioner could not complain. Such a test would catch other fish in the same net. Petitioner would have to pay taxes, but so would others similarly situated.

But the Court chose to evade the argument that opening a ghetto is a charitable purpose. It espouses the same tests and cites the same cases which are described in Petitioner's Application for Writ of Certiorari. Then it fails to demonstrate any fallacy in Petitioner's argument.

Since Petitioner meets the tests for tax exemption announced by the Texas Courts, denial of exemption to its property is a denial of equal protection. This denial is no less a violation of Petitioner's constitutional rights because it is achieved by silence rather than by words.

THE COIN LAUNDRY

A coin laundry is operated on Petitioner's apartment premises to serve its tenants. Thirty percent of the proceeds of this operation go to Petitioner (the laundry operator retaining the balance). This thirty percent has been donated by it to the negro churches by which it was organized to be used by them for benevolent purposes. Respondents contend that this deprives Petitioner of its status as a purely public charity. This argument makes about as much sense as a contention that the operation of a pay telephone in a charity hospital deprives the hospital of its charitable status. At any rate, the presence of the coin laundries on the premises was not the basis for the decision of the Texas Court of Civil Appeals.

INACCURACIES IN RESPONDENTS' STATEMENT OF THE FACTS OF THE CASE

Respondents' statement of the material of the facts of the case contains inaccuracies. Among these are:

(a) On pages 4 and 5 of Respondents' Brief, it is asserted that there is "decent" and "integrated" housing available in immediate areas of Petitioner's apartment complex. The City Judge of the City of Waco, an employee of one of the Respondents, did testify that he had houses, which he considered to be decent, for rent in the immediate area. (St. of Facts pp. 79-84). There is no testimony that these are rented by anyone other than negroes. James J. Miller, a sociologist and executive director of Waco's local social planning agency, testified that the population in the census tract in which Petitioner's apartment complex is located is ninety-four percent negro, whereas the population in McLennan County, Texas, as a whole, is sixteen percent negro. He testified that forty percent of the hous-

ing in that census tract is classified as deteriorated and dilapidated. (St. of Facts pp. 32-38). F. E. Murrell, the Tax Collector of the City of Waco, testified that he knows of no other apartment house in Waco that seeks negro tenants. He also testified that none of the numerous apartment units (other than Petitioner's) built in Waco in the past five years is actually occupied by a single negro tenant. (St. of Facts pp. 67-68, p. 74). There is no testimony in the record which indicates the existence of any non-segregated housing in McLennan County, except Petitioner's apartment. A report, prepared under the supervision of witness Miller, shows a very high degree of residential segregation between negroes and whites in McLennan County, Texas. (St. of Facts, page 74).

(b) On page 5 of their Brief, Respondents say that Petitioner has not produced evidence which shows that Petitioner's apartment complex prevents persons from becoming burdens to society or the State. Of course, as a practical matter, opinion testimony of qualified expert witnesses is about the only kind of evidence available on questions such as these. In this connection, reference is made to portions of the testimony of Professors Alfred McClung Lee, Arnold Rose and Seymour Leventman, which is set out in Appendix "A", attached hereto.

Respectfully submitted,

THOMAS P. BROWN, III
1008 20th Street, Northwest
Washington, D. C.
DAVID B. KULTGEN
BEARD & KULTGEN
P. O. Box 529
Waco, Texas 76703

By .....
DAVID B. KULTGEN